

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

<b>GENERAL ELECTRIC CORPORATION,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b>Case No. 01 C 1307</b>
	)	
<b>BILLY E. ADKINS, Administrator of the</b>	)	
<b>Estate of Helena R. Adkins,</b>	)	
	)	
<b>Defendant.</b>	)	

**Ruling on General Electric's Second Motion for Reassignment of Removed Cases  
as Related Pursuant to Local Rule 40.4**

Before the court is General Electric's ("GE") Second Motion for Reassignment of Removed Cases as Related Pursuant to Local Rule 40.4, in which GE asks that one judge be assigned to 22 removed cases that arose from an accident on March 15, 1999, in which an Amtrak passenger train, powered by two "Genesis" locomotives manufactured and sold by GE, collided with a tractor-trailer truck loaded with steel bars at a grade crossing near Bourbonnais, Illinois. By orders entered on March 15, April 3, and April 5, 2001, this court determined that a total of approximately 50 declaratory judgment actions brought by GE against individuals who had filed law suits in the Circuit Courts of Cook County are related and appropriate for reassignment to the calendar of a single judge under Rule 40.4. These cases have or will be reassigned to this court as related cases. On March 28, 2001, GE removed 28 pending state court actions against GE and other defendants arising out of the accident to federal court. On March 29, 2001 GE moved to have these cases deemed related to one

another and to GE's declaratory judgment actions and for reassignment to this court's calendar. At a hearing on the motion, which turned out to be uncontested, this court granted the motion on the record. The pending motion addresses additional removed actions seeking the same or similar relief. Meanwhile, for reasons set out below, this court did not enter an order pursuant to its April 5 ruling requesting the Executive Committee to reassign the removed cases.

The original declaratory judgment action, *General Electric Co. v. Adkins*, No. 01 C 1307, seeks a declaratory judgment, in Count I, that all of defendant's state common law claims relating to alleged defects or negligence in the design, manufacture, construction, performance and choice of materials of the Genesis locomotive and its fuel tanks are preempted by federal law; and, in Count II, that General Electric is not liable in any way concerning the plaintiff's decedent's estate. The corresponding removed complaint, *Adkins v. Illinois Central Railroad*, No. 01 C 2165 in this court, includes common law claims against GE and, as well, similar claims against six additional defendants: the Illinois Central Railroad, owner and operator of the railroad tracks at the accident site and on which the train was traveling; Safetran Systems Corp., the manufacturer and seller of the grade crossing system; General Signal Co., the manufacturer and seller of crossing gates at the site; John Stokes, driver of the truck with which the train collided; Melco Transfer, Inc., Stokes' employer, and Birmingham Steel Co., the shipper whose goods were being transported by Stokes and Melco at the time of the accident. Each of the declaratory judgment actions has a corresponding removed complaint setting out substantially identical claims as with the *Adkins* cases.

Under Local Rule 40.4(b) of this court, related cases (and these cases are clearly related) may be reassigned to the calendar of a single judge where four criteria are met:

- (1) both cases are pending in this Court;

- (2) the handling of both cases by the same judge is likely to result in a substantial saving of judicial time and effort;
- (3) the earlier case has not progressed to the point where designating a later filed case as related would be likely to delay the proceedings in the earlier cases substantially; and
- (4) the cases are susceptible of disposition in a single proceeding.

The first criterion is certainly established here, and the third, it is safe to say, is also established.

However, and disregarding number (2) for the moment, the court has, on reflection, concluded that, despite the agreement of the parties, the fourth criterion cannot be met on the removed cases. This is because each of the cases is brought by a plaintiff with a separate case and separate proof, particularly as to damages. It is here that the removed cases diverge from the original declaratory judgment actions. If GE is correct that all the common law claims are preempted, and that GE's locomotives were in compliance with all federal regulations, then GE is out of the litigation universe. In that instance, the basis for federal jurisdiction would evaporate and the cases would be remanded to the state court. On the other hand, if GE loses the declaratory judgment action, each of the cases must be tried against it and all other defendants. Even if those cases were then to stay in federal court, it would not be appropriate under Local Rule 40.4 to have all of these trials before a single judge. In other words, disposition of the claims by and against GE will not dispose of the other cases. One judge would, rather, have a disproportionate number of trials and the court's random assignment system would be disserved. To put the matter in terms of LR 40.4(b)(4), the **claims** are susceptible of disposition in one proceeding, but the **cases** are not.

It is likely that the other district court judges will defer disposition of the issues concerning GE in their cases to allow this court to rule in the declaratory judgment actions. Meanwhile, the remainder of the claims against all the parties should go forward notwithstanding the pendency of the declaratory judgment actions. In order to obviate the need for counsel to proceed in many courtrooms, however,

this court has requested the Executive Committee enter an order providing as follows:

1. Any substantive or procedural motion or other filing that pertains to all cases shall be filed only in *Adkins v. Illinois Central R.R. Co.*, No. 01 C 2165, which is hereby assigned to Judge Lefkow under LR 40.4, and the motion or other filing shall identify within the caption the case numbers of all cases to permit the docketing of such filing in other cases as well.
2. All discovery in any of the actions will be deemed discovery in all other actions to which the discovery is relevant.
3. All motions and hearings pertaining to case administration, discovery, or other procedural issues shall be presented in *Adkins* before Judge Lefkow.
4. Any substantive motion that is not common to all the cases shall be presented before the assigned judge.

For the reasons stated, the court vacates its ruling on the record on April 5, 2001 granting the motion for a finding that the removed cases, other than *Adkins v. Illinois Central, et al.*, Case No. 01 C 2165, should be reassigned to a single judge. The motion remains granted as to that single case. Because the court has acted *sua sponte*, there will be no need for a motion seeking joint pretrial administration of the removed cases.

ENTER:

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JOAN HUMPHREY LEFKOW  
United States District Judge

April 24, 2001